

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Collection Agency License of: No. 10F-BD038-BNK

3 **CORPORATE RECEIVABLES, INC.**
4 3003 North Central Avenue, Suite 320
5 Phoenix, Arizona 85012

6 **NOTICE OF HEARING**

7 Petitioner.

8 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-137,
9 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of
10 Administrative Hearings, an independent agency, and is scheduled for September 8, 2010, at 8:00
11 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona,
12 (602) 542-9826 (the "Hearing").

13 The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order
14 pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to
15 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
16 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
17 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
18 suspension or revocation of Petitioner's license pursuant to A.R.S. § 32-1053; (4) an order to pay
19 restitution of any fees earned in violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§ 6-131
20 and 6-137; and (5) an order or any other remedy necessary or proper for the enforcement of statutes
21 and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

22 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
23 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
24 or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to
25 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
26 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
of Administrative Hearings has designated Lewis Kowal, at the address and phone number listed

1 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona
2 Administrative Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08,
3 the Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing,
4 final decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative
5 Law Judge is specifically prohibited from entering.

6 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
7 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
8 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
9 Administrative Hearings.

10 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
11 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
12 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
13 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
14 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.
15 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

16 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
17 made by a court reporter or by electronic means. Any party that requests a transcript of the
18 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

19 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
20 Attorney General Erin Gallagher, (602) 542-8935, 1275 West Washington, Phoenix, Arizona 85007.

21 **NOTICE OF APPLICABLE RULES**

22 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
23 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
24 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
25 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
26 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through

1 R2-19-122. A copy of these rules is enclosed.

2 Pursuant to A.A.C. R20-4-1209, Petitioner shall file a written answer **within twenty (20)**
3 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioner's position
4 or defense and shall specifically admit or deny each of the assertions contained in this Notice of
5 Hearing. If the answering Petitioner is without or is unable to reasonably obtain knowledge or
6 information sufficient to form a belief as to the truth of an assertion, Petitioner shall so state, which
7 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioner
8 intends to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioner
9 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised
10 in the answer is deemed waived.

11 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioner will be**
12 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
13 true and admitted and the Superintendent may take whatever action is appropriate, including issuing
14 an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating
15 collection agencies in Arizona pursuant to A.R.S. §§ 6-123 and 6-131, and imposing a civil money
16 penalty pursuant to A.R.S. § 6-132.

17 Petitioner's answer shall be mailed or delivered to the Arizona Department of Financial
18 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
19 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
20 Arizona 85007 and to Assistant Attorney General Erin Gallagher, Consumer Protection & Advocacy
21 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

22 **Persons with disabilities may request reasonable accommodations such as interpreters,**
23 **alternative format or assistance with physical accessibility.** Requests for accommodations must
24 be made as early as possible to allow time to arrange the accommodations. If accommodations are
25 required, call the Office of Administrative Hearings at (602) 542-9826.

26 . . .

1 FACTS

2 1. Petitioner Corporate Receivables, Inc. ("CRI") is an Arizona corporation that is
3 authorized to transact business in Arizona as a collection agency, license number CA 0909082,
4 within the meaning of A.R.S. §§ 32-1001, *et seq.* The nature of CRI's business is that of soliciting
5 claims for collection and collection of claims owed, due or asserted to be owed or due within the
6 meaning of A.R.S. § 32-1001(2).

7 2. CRI is not exempt from licensure as a collection agency within the meaning of A.R.S.
8 § 32-1004.

9 3. On March 11, 2009, the Department conducted an examination of Petitioner's
10 business affairs which revealed that CRI had numerous consumer complaints filed against it alleging
11 harassment and violations of the Fair Debt Collection Practices Act ("FDCPA") and Arizona statutes
12 and rules regarding the conduct of a collection agency, specifically, thirty nine (39) complaints filed
13 with the Department since the Department's last examination. Of these thirty nine (39) complaints,
14 nineteen (19) dealt with harassment, specifically:

15 a. Complaint No. 4008820 was filed on April 26, 2005. Complainant's mother
16 had an outstanding debt. The collector called Complainant's mother on a
17 Sunday and complainant's mother advised the collector that she had not
18 received a bill. The collector called Complainant's mother a liar and
19 threatened and harassed her. The collector's supervisor was equally rude and
20 threatening;

21 b. Complaint No. 4009227 was filed on July 22, 2005. Complainant states the
22 collector used vulgar language, threatened to destroy Complainant's credit and
23 change Complainant's credit report. Complainant further states he was being
24 harassed and that the collector had called his father;

25 c. Complaint No. 4010149 was filed on January 27, 2006. Complainant claims
26 the collector harassed Complainant "illegally" about a debt. Complainant

1 claims CRI continues to call even when asked not to and threatens
2 Complainant over the phone. The collector is loud, abusive, uses foul
3 language, refuses to let the Complainant speak to a supervisor, calls at all
4 hours of the day and night and refuses to provide documentation regarding the
5 debt;

6 d. Complaint No. 4010276 was filed on March 9, 2006. Complainant claims the
7 collector has harassed both her and her son on many occasions regarding a
8 debt owed by her son. Complainant states the collector's behavior became
9 increasingly rude and belligerent during one phone call when the Complainant
10 explained her son no longer lived with her. Complainant claims the collector
11 threatened not only her son but her family. The threatening tone of the
12 collector made Complainant extremely frightened and terrified. Complainant
13 claims that after paying the debt for her son, the collector told her "Go ahead
14 and build yourself up and we will knock you down." Complainant claimed
15 the collector was out of control, disrespectful and extremely frightening, and
16 she is concerned for her family's safety;

17 e. Complaint No. 4010372 was filed on April 5, 2006. Complainant listened in
18 on the collector's call to his daughter and found the collector to be extremely
19 rude, intimidating and threatening. Complainant had the call on speakerphone
20 and the collector was found to be rude, belligerent and confrontational. The
21 collector kept interrupting and was found to be extremely unprofessional,
22 threatening and unethical, and Complainant claims the collector used
23 threatening tactics and dishonesty in dealing with his daughter;

24 f. Complaint No. 4011241 was filed on November 20, 2006. Complainant
25 claims the collector calls Complainant at work, threatening further actions
26 such as garnishing wages and misrepresenting the debt;

- 1 g. Complaint No. 4011324 was filed on December 15, 2006. Complainant is
2 deployed overseas, and the collectors have called both her mother and
3 husband, who has power of attorney. Complainant claims her husband has
4 received threatening phone calls and the collector also made slanderous
5 defamation of Complainant's character. Complainant's husband has sent a
6 cease and desist letter and also complained to his congressman;
- 7 h. Complaint No. 4011370 was forwarded to the Department from the Attorney
8 General's office on January 5, 2007. Complainant has repeatedly told the
9 collectors to cease and desist their harassing phone calls to her and also to her
10 father's telephone number. The collectors continue the harassing phone calls;
- 11 i. Complaint No. 4012291 was forwarded on July 5, 2007 from the Attorney
12 General's office. Complainant says the collector called her at her work phone
13 number, so she asked the collector to call back on an alternate number. The
14 collector called Complainant a liar, harassed her, and called her names such as
15 a "debtor." Complainant asked to speak to the supervisor, and the collector
16 told her to beg and say please and further dehumanized her and refused to let
17 her speak to anyone else. Complainant states the collector was rude,
18 inappropriate, harassing, discriminatory and blatantly unprofessional and out
19 of line;
- 20 j. Complaint No. 4012580 was forwarded on September 18, 2007 from the
21 Attorney General's office. Complaint received harassing phone calls from the
22 collector at her place of work. Complainant informed the collector she was
23 not allowed to receive calls at work and gave the collector an alternate number
24 where she could be reached. The collector continues to call her at work;
- 25 k. Complaint No. 4013169 was filed on March 7, 2008. Complainant states the
26 collector harasses Complainant at work. Complainant requested that the

1 collector not call him at work. The collector threatened to ruin Complainant's
2 military career if the account is not paid;

3 l. Complaint No. 4013620 was forwarded on July 21, 2008 from the Attorney
4 General's office. Complainant states that a collector called Complainant at
5 work regarding an outstanding debt. The collector did not validate the debt
6 but asked for her social security number and threatened to call her employer.
7 The following day, the collector left a voicemail at Complainant's office
8 threatening to call her employer if she did not return the phone call by noon
9 the next day. Complainant left the collector a message telling how and where
10 Complainant could be reached. The following day, the collector left another
11 threatening message on Complainant's cell phone;

12 m. Complaint No. 4013621 was forwarded on July 21, 2008 from the Attorney
13 General's office. Complainant said the collector degraded him and talked to
14 him like a dog. A second collector called Complainant and was rude and
15 threatening. The second collector told the Complainant he would cancel the
16 payment agreement and mess with the Complainant on his job. Each time the
17 Complainant called back, the collector hung up on him. Complainant feels he
18 should be treated with respect and not talked down to, threatened, and yelled
19 at; and

20 n. Complaint No. 4013453 was received by the Department on or about May 29,
21 2008, from an attorney representing a Petitioner in the United States District
22 Court, District of Connecticut, claiming that CRI had a Court Order entered
23 against it on March 28, 2008, for violations of the FDCPA, including "failing
24 to give plaintiff the required timely written notice of the debt, its collection,
25 and her rights to dispute or verify the debt in question." Under the FDCPA,
26 the Court ordered CRI to pay \$9,195.83 in attorney fees and \$92.59 in costs

1 within thirty days of the Order. However, CRI violated the Court Order by
2 refusing to pay within that time frame.

3 On or about June 5, 2008, the Department sent a letter to CRI
4 regarding Complaint No. 4013453. On or about June 11, 2008, CRI
5 responded to the Department stating they had sent a "check in the amount of
6 \$1,976.92" to their local attorney, who would be forwarding this amount to
7 Complainant. CRI stated that the \$1,976.92 "represents the costs portion of
8 the court order, costs that are believed to have been paid by the consumer in
9 the case which are being reimbursed...As you can see from the attached e-
10 mail, I made a good faith offer to settle the matter...he was not willing to
11 accept the offer."

12 On or about October 2, 2008, the Department requested a status update
13 regarding payment of the court ordered attorney's fees and costs in the full
14 amount, with a detailed explanation if CRI was in violation of the Court
15 Order. On or about October 9, 2008, the Department received a copy of a
16 check made payable to the Complainant in the amount of \$9,288.42.

17 On or about October 29, 2008, the Department was advised
18 Complainant had sued CRI for delinquent post-judgment attorney's fees and
19 costs. The Department was advised that the Court ordered CRI to pay fees in
20 the amount of \$2,436.00 within thirty days and CRI was in violation of
21 another order.

22 4. On or about July 29, 2008, the Department issued a Formal Letter of Concern ("Letter
23 of Concern") to CRI regarding complaints the Department received claiming harassment and/or
24 abuse by CRI. CRI responded to the Department's Letter of Concern stating they had created a new
25 position "responsible for training our collectors and ensuring compliance with the FDCPA and other
26 State and Federal laws." CRI further advised the Department that with the creation of this position,

1 the employee hired "will be able to more closely monitor phone calls to listen to the interactions
2 between our collectors and consumers as well as dedicate more time to training. It is my belief that
3 this will reduce, if not, completely eliminate, any further complaints."

4 5. Since the Department issued the July 29, 2008 Letter of Concern, the Department has
5 received additional complaints regarding harassment and/or abuse:

6 a. Complaint No. 4013811 was received by the Department on or about
7 September 17, 2008. Complainant claims she was receiving harassing calls
8 for a wrong party. When Complainant advises collectors that she does not
9 know the person CRI is trying to contact, the collectors "make sarcastic
10 remarks, mimic us and are quite rude;"

11 b. On or about October 26, 2008, the Department opened Complaint No.
12 4013959, regarding CRI's violation of the supplemental post-judgment Court
13 Order. On November 3, 2008, the Department wrote CRI requesting "an
14 explanation, including any and all details surrounding Corporate Receivables
15 Inc.'s violation of the Court Order." CRI's response to the Department was
16 due on November 13, 2008. On or about November 13, 2008, the Department
17 received a response from CRI's counsel stating they needed "some additional
18 time" to provide the Department with a response;

19 On or about November 17, 2008, a Department Examiner spoke with
20 CRI's counsel regarding the Department's concerns with CRI's continuing
21 pattern of violating and disregarding Court orders, and all details inclusive of
22 this complaint.

23 On or about November 19, 2008, the Department received a response
24 from CRI's counsel providing a brief history of this case. CRI's counsel
25 advised that it was not "feasible to hire new counsel to object to a \$2,000 plus
26 fee application." CRI's counsel further claimed that his "client has every

1 intention of working this out, is solvent and operating and part of the delay is
2 due to my office being particularly busy during this time of counseling clients
3 for debt relief and bankruptcies.” This, within itself, did not provide a
4 response as required by the Department regarding “any and all details
5 surrounding CRI’s violation of the Court Order.”

6 On or about November 25, 2008, the Department confirmed that the
7 court-ordered payment had not been remitted to the Complainant. On or
8 about February 9, 2009, the Department was notified by Complainant that the
9 parties had reached a settlement regarding Complaint 4013959. On or about
10 February 23, 2009, the Department requested a copy of the settlement
11 agreement from CRI’s attorney. On or about March 2, 2009, the Department
12 received a copy of a letter from CRI addressed to the Complainant which
13 enclosed a check “in the amount of \$1,832.00 representing my client’s
14 payment of the court ordered costs...”;

15 c. Complaint No. 4014174 was received on January 2, 2009. Complainant
16 claims he was constantly hounded by phone calls at all times of the day and
17 especially on week-ends” and also found CRI’s calls to be “ridiculous and
18 intimidating;”

19 d. Complaint No. 4014367 was received on March 19, 2009. Complainant
20 received abusive and harassing calls at work. Complainant states he had not
21 received any collection letters from Petitioner even though CRI’s notes show
22 numerous collection letters have been mailed. Complainant has settled the
23 debt directly with the client;

24 e. Complaint No. 4014432 was received on April 2, 2009. Complainant states
25 the collector spoke in a condescending way and told Complainant his credit
26 would be ruined. Complainant also says that he has never been treated so

badly by a “client” in his life; and

f. Complaint No. 4014617 was received on June 5, 2009. Complainant states he started receiving very nasty and rude telephone voice mail messages from CRI, so Complainant sent a cease and desist letter.

6. The Collection Agency renewal Application Financial Statement received by the Department on February 26, 2010 shows CRI has a negative net worth of three million, two hundred fifty two thousand, five hundred seven dollars (\$3,252,507.00).

7. Based upon the above findings, the Department issued and served upon CRI an Order to Cease and Desist; Notice of Opportunity for Hearing; Consent to Entry of Order on March 2, 2010.

8. The Department received Petitioner's request for a hearing to appeal the Cease and Desist Order on March 10, 2010.

LAW

1. Pursuant to Title 6 and Title 32, Chapter 9 of the Arizona Revised Statutes, the Superintendent has the authority and the duty to regulate all persons engaged in the collection agency business and with the enforcement of statutes, rules, and regulations relating collection agencies.

2. By the conduct set forth in the Findings of Fact, CRI has violated the following:

a. A.R.S. § 32-1051(3), by failing to deal openly, fairly and honestly in the conduct of the collection agency business;

b. A.R.S. § 32-1051(4), by engaging in unfair or misleading practices or resorting to oppressive, vindictive or illegal means or methods of collection;

c. A.R.S. § 32-1051(5)(b), by giving or sending to any debtor, or causing to be given or sent to any debtor, any notice, letter, message or form which is ambiguous as to or misrepresents the character, extent or amount of the obligation of the debtor;

- d. A.A.C. R20-4-1511(A), by using unauthorized or oppressive tactics designed to harass any person to pay a debt;
- e. A.A.C. R20-4-1511(B), by using written or oral communications that either ridicule, disgrace or humiliate any person or tend to ridicule, disgrace or humiliate any person;
- f. A.A.C. R20-4-1511(D), by permitting its agents, employees, representatives, debt collectors or officers to use obscene or abusive language in efforts to collect a debt;
- g. A.A.C. R20-4-1512(A), by failing to contact debtors by telephone only during reasonable hours and failing to make reasonable attempts to contact debtors at the debtors' residences, as a collection agency may contact a debtor at the debtor's place of employment only if a reasonable attempt to contact the debtor at the debtor's place of residence has failed;
- h. A.A.C. R20-4-1512(B), by contacting third parties, including debtors' friends, relatives, neighbors, or employers and informing the third party of the debt, asking the third party to pressure the debtor into paying the debt or asking the third party to pay the debt when not legally obligated to do so; and
- i. A.A.C. R20-4-1512(C), by threatening to contact third parties listed under subsection (B) for purposes listed in subsection (B).

3. Petitioner does not meet any of the exemptions to the licensing requirements set forth in A.R.S. § 32-1004(A).

4. Pursuant to A.R.S. § 32-1053(A)(1), Petitioner's failure to remain financially solvent pursuant to A.R.S. § 47-1201(23) is grounds for the suspension or revocation of the collection agency license.


5. The violations, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to

1 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
2 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
3 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
4 suspension or revocation of Petitioner's license pursuant to A.R.S. § 32-1053; (4) an order to pay
5 restitution of any fees earned in violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§ 6-
6 131(A)(3) and 6-137; and (5) an order or any other remedy necessary or proper for the enforcement
7 of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

8 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
9 above-described violations, the Superintendent may issue a cease and desist order pursuant to A.R.S.
10 § 6-137; affirm the March 2, 2010 Cease and Desist Order; impose a civil money penalty pursuant to
11 A.R.S. § 6-132; suspend or revoke Petitioner's license; order the restitution of any fees earned in
12 violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§ 6-131 and 6-137; and order any other
13 remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies
14 pursuant to A.R.S. §§ 6-123 and 6-131.

15 DATED this 15 day of April, 2010.

16 Lauren Kingry
17 Superintendent of Financial Institutions

18 By 
19 Robert D. Charlton
20 Assistant Superintendent

21 ORIGINAL of the foregoing filed this 15th
22 day of April, 2010, in the office of:

23 Lauren Kingry
24 Superintendent of Financial Institutions
25 Arizona Department of Financial Institutions
26 ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

1 COPY mailed same date to:

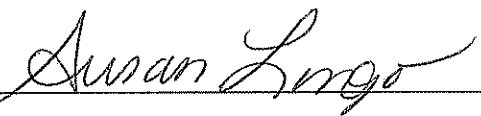
2
3 Lewis Kowal, Administrative Law Judge
4 Office of the Administrative Hearings
5 1400 West Washington, Suite 101
6 Phoenix, AZ 85007

7 Erin O. Gallagher, Assistant Attorney General
8 Office of the Attorney General
9 1275 West Washington
10 Phoenix, AZ 85007

11 Robert D. Charlton, Assistant Superintendent
12 Mack Wynegar, Senior Examiner
13 Arizona Department of Financial Institutions
14 2910 N. 44th Street, Suite 310
15 Phoenix, AZ 85018

16 AND COPY MAILED SAME DATE by
17 Certified Mail, Return Receipt Requested, to:

18 Gregg Curry, Interim Manager
19 Corporate Receivables, Inc.
20 3003 N. Central Ave., Ste. 320
21 Phoenix, AZ 85012
22 Petitioner

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25
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